

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

NATIONAL ASSOCIATION FOR)
GUN RIGHTS, INC., et al.,)
Plaintiffs,) CASE NO. 4:23-CV-00830-O
VS.) FORT WORTH, TEXAS
MERRICK GARLAND, et al.,)
Defendants.) OCTOBER 2, 2023

VOLUME 1 OF 1
TRANSCRIPT OF EVIDENTIARY HEARING
BEFORE THE HONORABLE REED C. O'CONNOR
UNITED STATES DISTRICT COURT JUDGE

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E X H I B I T S

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1 Q. And that's the moment we are looking at right now?

2 A. Yes.

3 Q. Okay. What causes or what would cause the hammer
4 to be released again to fire a subsequent shot?

5 A. The only thing that can occur to cause that is
6 another rearward movement by the finger on the trigger
7 enough that it pivots the trigger down and breaks this
8 engagement that we've referred to at the bottom of the
9 hammer.

10 Q. Okay. And what we've just described is the
11 function of an AR-15 trigger, right?

12 A. That is the function of the trigger to release the
13 hammer.

14 Q. I mean, the video we just watched was an AR-15?

15 A. Yes.

16 Q. Okay. So now I would like to get into a
17 discussion of the FRT-15, which is the subject of this case.
18 Are you familiar with this device?

19 A. Yes.

20 Q. How are you familiar with this device?

21 A. Approximately two years ago I was called by the
22 owner of the company and asked if I would take a look at it,
23 testify or examine it and render an opinion as to what it
24 qualifies to as within the law.

25 Q. You are talking about the owner of the

1 manufacturer?

2 A. Yes. The owner of the FRT-15, the Rare Breed
3 Triggers Company.

4 Q. Did you reach an opinion?

5 A. I did.

6 Q. How did you reach that opinion?

7 A. I traveled to his location, examined the trigger
8 that was outside of the gun, examined the firearm, which had
9 one of the triggers installed on it, test fired it, looked
10 at diagrams and videos, familiarized myself with the way it
11 operates.

12 Q. And what would you reach as a conclusion?

13 A. That it is not a machinegun. Absolutely not.

14 Q. Is it a semiautomatic automatic trigger?

15 A. It is just that.

16 Q. How does an FRT-15 differ from the semiautomatic
17 AR-15 trigger that you just discussed for us?

18 A. The absolute only difference between the two is
19 that the trigger is reset, forced into a reset position, in
20 a regular AR-15 by a spring. And in the FRT it's forced
21 into the reset position by the hammer.

22 All AR-15s are forced reset triggers. In a
23 standard AR-15, it's a spring that forces the trigger to
24 reengage with the hammer. Whereas, in the FRT-15, the
25 hammer pushes down on the trigger and forces it to pivot

1 A. We went over that in a prior court proceeding, but
2 I don't recall what the trigger weight is.

3 Q. Is it true that Rare Breed Triggers advertises it
4 as three and a half pounds of force?

5 A. I don't recall. It could be.

6 Q. You fired the FRT-15, correct?

7 A. Yes.

8 Q. Just in your estimate, does three and a half
9 pounds sound approximately correct for how much force is
10 required to pull a trigger?

11 A. It sounds a little light actually, but it could
12 be. I don't recall.

13 Q. A little light. Would you say it's more than
14 five pounds of force required?

15 A. What part of I don't recall do you want me to
16 further explain? I don't recall.

17 Q. Understood.

18 For the FRT-15, is it correct to say that, if you
19 pull too hard, if you apply a very high amount of force,
20 that you will overcome the operation and the firearm will
21 stop firing after one round; is that correct?

22 A. Yes. When you are firing an FRT-15, if you pull
23 the trigger so hard, and if you have the physical strength
24 to pull so hard that you interrupt the cycle of operation,
25 then the gun stops, because a semiautomatic or any

1 is in no scenario are you getting more than one shot with a
2 single release of the hammer. That's physically impossible.

3 MR. CLENDENEN: If I may, your Honor, just grab
4 something? Your Honor, I have three copies of this
5 document. If you'd like me to give you one --

6 THE COURT: Very good. Yes.

7 MR. CLENDENEN: -- give one to the witness.

8 (BY MR. CLENDENEN:)

9 Q. Mr. O'Kelly, have you seen this document before?

10 A. I recognize it as one that I wrote, but I haven't
11 read it lately. So, yeah, I recognize it.

12 Q. So the title of this document is Expert Report of
13 Daniel O'Kelly for use in Federal Court; is that correct?

14 A. Yes.

15 Q. And you wrote this document?

16 A. I did.

17 Q. Was this document used in the Rare Breed Triggers
18 case in the Eastern District of New York?

19 A. I don't recall.

20 Q. Sorry. Just give me one second, your Honor.

21 Mr. O'Kelly, if you could turn to the fourth page
22 down at the bottom, it's marked RTF 0026602.

23 A. Okay.

24 Q. In that first full paragraph on that page, can you
25 just read that out loud?

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MERRICK GARLAND,
IN HIS OFFICIAL CAPACITY AS
ATTORNEY GENERAL
OF THE UNITED STATES, ET AL.,

Defendants.

Case No. 4:23-cv-00830-O

DECLARATION OF RYAN J. FLUGAUR

I, Ryan J. Flugaur, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in this Declaration is based on my personal knowledge.

2. I am employed as the vice president of the Plaintiff in this action, the National Association for Gun Rights, Inc (the "NAGR"). I am familiar with NAGR's records.

3. NAGR has several individuals who were members at the time the Complaint was filed who either own or wish to own FRTs.

4. On such member is Plaintiff Wheeler, who has been a NAGR member before this matter was filed.

5. In addition, based on a July 26, 2023, poll NAGR conducted of a subset of its members in the Northern District of Texas, 55 NAGR members self-reported that they currently own or wish to own a forced reset trigger.

6. I personally aware of at least fifteen NAGR members who have been contacted by the Bureau of Alcohol, Tobacco, Firearms, and Explosives regarding their alleged possession of

forced reset triggers after the date of the preliminary injunction, October 7, 2023. I am aware of these contacts because these individuals reached out to NAGR requesting our assistance.

7. NAGR's bylaws, as last amended on June 7, 2023, establish preset criteria for two classes of members, voting members and supporting members.

8. Supporting members are people who either make a financial contribution above a certain level to the National Association for Gun Rights or have certain specified relationships with the organization and/or affiliated groups.

9. Supporting members have the ability to influence the policy of the organization by voting on policy referendums put forward by the Board of Directors.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 22, 2023


Ryan J. Flugaur

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DECLARATION OF CHRIS MCNUTT

I, Chris McNutt, pursuant to 28 U.S.C. § 1746, declare as follows:

1. I am over 18 years of age, of sound mind, and otherwise competent to make this Declaration. The evidence set out in this Declaration is based on my personal knowledge.

2. I am employed as the president of the Plaintiff in this action, Texas Gun Rights, Inc. ("TGR"). I am familiar with TGR's records.

3. I am also a member of TGR.

4. I personally have wanted to own a forced reset trigger since before August 1, 2023, and would purchase one but for the Bureau of Alcohol, Tobacco, Firearms, and Explosives classification of forced reset triggers as "machineguns."

5. TGR has voting and supporting members. Supporting members are persons who either make a financial contribution above a certain level, support certain Texas Gun Rights activities, or have certain specified relationships with the organization and/or affiliated groups.

6. A March 2023 Resolution of the Board of Directors of TGR sets forth criteria for becoming a supporting member and provides for supporting members to provide policy input through certain referenda.

7. TGR's corporate certificate of formation explicitly acknowledges that the corporation has members.

VERIFICATION

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 22, 2023

A handwritten signature in black ink, appearing to read "Chris McNutt", is written over a horizontal line.

Chris McNutt